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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,423	01/30/2002	Iouri Kloubakov	7190-205	7980
27383	7590	07/20/2005	EXAMINER	
CLIFFORD CHANCE US LLP 31 WEST 52ND STREET NEW YORK, NY 10019-6131			FISCHETTI, JOSEPH A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/060,423

Applicant(s)

KLOUBAKOV ET AL.

Examiner

Joseph A. Fischetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-13 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7,8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, since pager can take many shapes and sizes, it is unclear what dimensions are being claimed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humble 136 in view of Ito et al.

Humble discloses a checkout station configured for self-checkout by customers of items for purchase (50); a supervisory terminal is configured to conduct supervisory activities to administer the operation of the checkout station 28, e.g. missing codes inputted into system is read as supervisory activity); However, Humble fails to teach a

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controller operatively coupling a plurality of supervisory terminals to the checkout station, wherein said controller is configured to enable administration of the checkout station by multiple ones of the supervisory terminals.

But, Ito et al. do disclose a controller (30) operatively coupling a plurality of supervisory terminals ( 32, 32) to a controlled device (fig. 12 items 33), wherein said controller is configured to enable administration of the controlled devices by multiple ones of the supervisory terminals. It would appear obvious to modify the system in Humble to include the controller 30 and plural supervisory terminals of Ito et al. because the motivation for this is set forth in Mumble in col. 2 to prevent bottlenecking of the system and thus the plural supervisory system of Ito et al. would do exactly that by allowing the other stations 28 to pick up the load at a point where the one station worker 28 becomes bottlenecked.

Re claim 2: as set forth above, the checkout station is one of a plurality of checkout stations as taught by Humble 32,32. However, Humble use a single controller to commonly address the plurality of supervisory terminals 32,32, thus the commonly addressed terminal codes are read as plural controllers, but even still, there would be no need to have a plurality of hardware controllers except for redundancy which is not deemed to be a patentable feature.

Re claim 3: the checkout station is one of a plurality of checkout stations as set forth above as taught by Humble 32,32 and is operatively coupled to each of the plurality of

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checkout stations; and the controller is configured to administer control of the plurality of checkout stations by multiple ones of the plurality of supervisory terminals (Fig. 12 discloses commonly addressed messaging between terminals 32,32 and controller 30.)

Re claims 4,5: a first one of the supervisory terminals is operatively coupled to the controller by a wireless data network (note that Humble discloses a wireless connection at system element 74 for communicating a financial transaction with a credit card which would obviously be applicable to communications between the supervisory terminals and the controller, and Ito et al. discloses wired line Ls connections between the supervisory terminal 32,32 and the members 12,12 which would obviously apply to the connection between checkout and the supervisory terminal in Humble because this would insure non-interfered with communications .

Re claims 6,7(insofar as understood); 8: Official Notice is taken with regard to the old and notorious use of battery powered computer terminals, e.g. lap top computers and for the old and notorious use of a vibrator signal in a pager. Absent a showing of criticality the size of an object is deemed a mere matter of design.

Claims 9,10,11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humble in view of Ito et al. as applied above, and further in view of Legge et al. The above combination fails to disclose a first one of the supervisory terminals comprises a card reader configured to clear a weight violation at the checkout station in

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response to a reading of an authorization transponder card. However, Legge et al. do teach using an attendant transponder 50 having a card reader for receiving a pass key to release debit/credit values. It would be obvious to modify the above combination above to include a pass key/transponder for releasing a locked up check out station due to weight discrepancies in Humble because this would make it easier to effect resetting of the locked system by a single sweep of a card which include all codes to effect such a change. Re claim 11: the checkout station is one of a plurality of checkout stations as taught by Humble 32,32 and is operatively coupled to each of the plurality of checkout stations; and Humble further teaches the a supervisory terminal 28 dedicated to conducting supervisory activities over a first (24, 2<sup>nd</sup> from the left) one of the plurality of checkout stations.

Claims 12,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humble in view of Ito et al. as applied above, and further in view of Wada.

Humble does teach a plurality of supervisory functions that can be performed to administer operation of the checkout station, e.g. code check, pricing, etc. but does not teach a first one of the supervisory terminals conducting supervisory activities consisting of a first subset of the supervisory functions; a second one of the supervisory terminals conducting supervisory activities consisting of a second subset of the supervisory functions; and the first and second subsets of the supervisory functions are different. But Wada does teach such a system wherein in col. 8 last paragraph it is disclosed that individual ones of the plural controllers has a different a subset of functions different from the other in order to conduct a different function of HVAC

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depending on client order. It would be obvious to modify the combination of Humble and Ito et al. to include the feature of assigning separate different functions to each of the supervisory controllers as taught by Wada because this would allow more efficient processing of information through the system. Re claim 13: heat control is common to the first and second subsets of the supervisory activities in Wada as would obviously be the pricing function in Humble.

#### FINAL

Applicant's arguments filed 5/9/05 have been fully considered but they are not persuasive. Applicant's argues that the elements of claim 1 have not been set forth in the combination of Humble and Ito. However, the examiner does not see it this way. In fact this is how the examiner sees claim 1:

- a. a check out station,
- b. a plurality of supervisory terminals; and
- c. a controller operatively coupling the plurality of supervisory terminals to the checkout station.

Every other recitation following the words "configured " is read as functional language and can be met by a combination which is capable of being used in the functional manner which is recited in these recitations. Thus, the question of obviousness and motivation legally must be taken from a standpoint of one of ordinary skill in the art teaching combining Humble and Ito to end up with elements a, b, and c. The examiner thinks so. Humble clearly discloses a self check out station and a supervisory terminal 22/28. Ito discloses a controller 30 which operatively couples the supervisory terminals

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32,32 to the controlled devices 33,33 via signal line Ls which addresses the supervisory terminals to direct a function to the controlled devices 33,33. Contrary to the applicant's view, the statement in col. 2 in Humble indicates a need for more supervisory terminals when more than three self check out stations are present. This is taken as a clear motivation for providing plural supervisory stations, especially since fig. 1 of Humble shows an additional two such stations, meaning that at least another supervisory station terminal 22/28 must exist. Given that Humble at least suggests plural supervisory terminals, it is an obvious conclusion to Humble given that with plural supervisory terminals, an obvious need is to connect them together via a central controller to effect the ultimate control of the controlled devices, e.g. the self check out stations. But, Applicant argues that the self checks outs and luminaries are not analogous because

Ito's luminaries 33 are understood as being little more than light bulbs and, accordingly there is no suggestion that *they can generate or respond to supervisory events or instructions or otherwise have a state requiring supervisory activities*" as required by the claims of the present application. Accordingly, Ito's control terminal 32 simply does not provide for *supervisory activities administering operation of the checkout station*" as recited by claim 1 [emphasis added]

The italicized parts of the above passage illustrate arguments directed to the functional aspects of claim 1 which have not been given weight, and hence are not convincing. That being said, the luminaries do have a state requiring supervisory control in that there they by themselves cannot determine brightness levels or react to timing



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sequences much in the same way a self check out station cannot on its own determine whether a customer is on a preferred customer database and entitled to discounts.

The 112 second rejection stands because a pager can have many varying sizes too great to contemplate and be definite. The recitation of a "pocket pager" would clear this problem up.

Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.02(l)(3).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to PRIMARY EXAMINER Joseph A. Fischetti at telephone number (703) 305-0731.

  
JOSEPH A. FISCHETTI  
PRIMARY EXAMINER